

WOOLWORTHS CODE ARBITER

ANNUAL REPORT FINANCIAL YEAR ENDED 30 JUNE 2021

This Report is provided pursuant to clause 36D of the Food and Grocery Code of Conduct by Helen McKenzie, Code Arbiter for Woolworths.

Number of complaints received for investigation in the financial year

One

Nature of the complaint

The complaint was made by a small supplier in relation to the decision to delist a product. The supplier was initially notified by Woolworths of the proposed delisting in June 2017. This was deferred following an internal appeal by the supplier and further discussions. Delisting was proposed again in June 2018, deferred again and finally proposed in June 2019. The delisting took effect on 20 July 2020.

The product was delisted in June 2020. The supplier sought an internal review of the decision through Woolworths' internal Speak Up mechanism. Woolworths investigated the complaint and advised the supplier on 10 December 2020 that the complaint was not substantiated. The supplier then notified a complaint to the Code Arbiter on 6 March 2021.

Although there was some doubt as to whether the Code Arbiter had the power under the Code to determine a complaint in relation to conduct that had occurred prior to the Arbiter's appointment and the commencement of the new Dispute Resolution provisions in the Code, with Woolworths' agreement, the complaint was accepted.

Time taken to investigate the Complaint

The Complaint was formally received on 8 March 2021. By agreement with the Complainant, the time for concluding the investigation of the Complaint was extended to 12 April 2021. The Code Arbiter's Determination was issued on 16 April 2021.

Outcome of the investigation

The complaint was found not to be substantiated.

Whether the complaint was resolved to the satisfaction of the complainant

The complaint was not substantiated.

Number of complaints in respect of which a recommendation under subclause 36(4) was made

None

Information provided by Woolworths under clause 27B in relation to price increase

Attached is a report provided by Woolworths dated 28 July 2021.



Helen McKenzie
Woolworths Code Arbiter

5 August 2021



Woolworths FY21 Report to Code Arbiter Information about Price Increases

28 July 2021

In accordance with clause 27B of the *Competition and Consumer (Industry Codes - Food and Grocery) Regulation 2015 (Food and Grocery Code)*, Woolworths Group Limited (**Woolworths**) is required to produce to the Code Arbiter information about supplier price increases during the last financial year. This is Woolworths' first report for the period from **1 January 2021 to 30 June 2021** in respect of FY21.

The Code Arbiter must include any information given to the Code Arbiter by Woolworths under clause 27B (information about price increases) in relation to the financial year in a written report to be provided to the ACCC, the Independent Reviewer and Woolworths by 11 August 2021. Woolworths must publish the Report by the Code Arbiter within one business day of receiving the report.

Woolworths' reports in relation to the price increase information required to be produced pursuant to subclauses 27B(a)-(e) are **below**.

(a) the total number of notifications given under sub clause 27A(2) by the retailer or wholesaler to any supplier during the financial year

Woolworths gave **237** notifications (**Retailer Notification**) in response to being informed of a price increase by its suppliers (**Price Increase Request**). Where multiple notifications have been provided to a single supplier in respect of different categories of products, these have been reported as separate individual Retailer Notifications.

(b) the number of those notifications that were not given within the 30-day period required by that subclause

Zero - Woolworths gave **all** its Retailer Notifications within the required 30-day period.

(c) the total number of negotiations entered into during the financial year following requests made under sub clause 27A(3)

Suppliers requested negotiations (**Negotiation Request**) in respect of **94** of the 237 Retailer Notifications.

(d) the number of those negotiations in which the retailer or wholesaler did not conclude its position on the negotiations within the period of 30 days starting on the day (the notification day) the retailer or wholesaler was notified of the relevant proposed price increase by the supplier



75 Negotiation Requests were not concluded within 30 days of the Price Increase Request.

(e) for each of the negotiations to which paragraph (d) applies, the number of days the retailer or wholesaler took to conclude its position on the negotiations starting from the notification day for the relevant proposed price increase

We have set out below a breakdown of negotiation lengths for the 78 Negotiation Requests that exceeded 30 days of the Price Increase Request.

1 negotiation took 35 days	6 negotiations took 56 days	3 negotiations took 77 days
3 negotiations took 36 days	1 negotiation took 58 days	1 negotiation took 78 days
1 negotiation took 37 days	1 negotiation took 59 days	3 negotiations took 79 days
3 negotiations took 38 days	2 negotiations took 62 days	3 negotiations took 80 days
1 negotiation took 39 days	1 negotiation took 63 days	2 negotiations took 81 days
1 negotiation took 41 days	1 negotiation took 64 days	2 negotiations took 82 days
2 negotiations took 42 days	1 negotiation took 66 days	3 negotiations took 83 days
2 negotiations took 43 days	4 negotiations took 68 days	6 negotiations took 84 days
1 negotiation took 44 days	1 negotiation took 69 days	1 negotiation took 85 days
1 negotiation took 47 days	2 negotiations took 70 days	1 negotiation took 86 days
5 negotiations took 48 days	1 negotiation took 71 days	1 negotiation took 87 days
1 negotiation took 49 days	2 negotiations took 73 days	
2 negotiations took 50 days	2 negotiations took 76 days	

Explanatory notes overleaf.



Explanatory Notes

These notes provide contextual background in respect of the data reported above.

Benefits of reporting requirements under the Food and Grocery Code

Woolworths acknowledges that the new requirements and associated administrative costs have served as a positive driver for both Woolworths and its suppliers to ensure the Food and Grocery Code objectives of timely negotiation and resolution of supplier price increase requests are met. The **percentage of Price Increase Requests concluded within 30 days has more than doubled** - an increase since FY20 from approximately 28% to 67% for the relevant FY21 reporting period.

Woolworths notes that in addition to meeting its notification obligations within the Code-prescribed timeframe, no complaints were raised against Woolworths by any of its suppliers, either through Woolworths' Supplier Speak Up hotline or with the Code Arbiter, in relation to the time period in which the price increase negotiations took place.

Negotiation Requests not concluded within 30 days of the Price Increase Request

As set out in Woolworths' responses to (a)-(e) in the Report, 75 out of 237 Retailer Notifications resulted in Negotiation Requests which were not concluded within 30 days of the Price Increase Request. The following context is provided in this respect:

- Woolworths has a longstanding published policy to seek 10-12 weeks' notice (i.e. 70-84 days) of a suppliers' nominated effective date for a price increase, being the date on which a price increase comes into effect as nominated by the relevant supplier (**Nominated Effective Date**). This time period is usually required in order to allow for the standard cycle of commercial activities to be implemented (e.g. promotions, planning cycles etc). Additionally, many suppliers, in particular, overseas suppliers, require a longer time period (in some instances, up to 6-9 months) for their own planning purposes. Accordingly, suppliers are accustomed to providing and, in many cases, require, notice of such lengths.
- In respect of the 75 Negotiation Requests that were not concluded within 30 days from the Price Increase Request, all but one negotiation were concluded ahead of the Nominated Effective Date. This one negotiation concluded only 2 days after the Nominated Effective Date.
- In relation to the suppliers with whom negotiations lasted longer than 30 days from the Price Increase Request, 70 (93%) of these were with large overseas based own brand suppliers, large international FMCG companies, or medium sized Australian companies with similar trading arrangements and planning requirements to the large international companies.
- During the relevant reporting period, no supplier withheld supply of a product during a negotiation.